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May 20, 2022

Annabel F. Shea, Esq.
Giarmarco, Mullins & Horton, P.C.
101 West Big Beaver Rd.
Troy, MI 48084-5280

Re: Franz v Oxford Community Schools, *et al.*
Our File No. 22213

Dear Ms. Shea:

Thank you for your e-mail on May 19, 2022, indicating that you now have obtained consent from all of your clients regarding a request to amend the complaint, as well as your revised proposed orders regarding our motion which were sent to our office on Friday May 20, 2022.

As you know, on May 10, 2022, we filed a Motion to Amend the Complaint, as well as a Request for Taxable Costs Pursuant to L.R. 7.1(a)(3). Your proposed orders only address part of our motions as it relates to the amendments only. The proposed orders you provided do not address the request for Taxable Costs as it relates to 7.1(a)(3).

Please recall that we have been asking for your consent to amend the complaint as early as March 17, 2022. At the status conference on April 19, 2022, the issue of the amendment was also brought up and no one who was present on the call voiced any objection. On behalf of your Client, only Mr. Mullins spoke and he indicated that wanted to review the proposed complaint prior to giving consent.

We provided you with a copy of the proposed amended complaint on May 4, 2022. The court had set a deadline that either the motion to amend the complaint or amended complaint would have to be filed on or before Monday, May 12, 2022.

We attempted many, many times to get consent from your office, and finally on the day of that consent was required to have been provided, a telephone conference took place between Ken Chapie and Milica Filipovic on May 10, 2022. Mr. Chapie indicated, "had not had a chance to speak with his client" about the amendment.

This is something that was a very simple ask and unfortunately, for whatever reason, Mr. Chapie or no one from your office ever spoke to your clients about the amendments. As a result of

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withholding consent pursuant to Local Rule 7.1, we did undertake a motion to amend the complaint, as well as a request for taxable costs pursuant to Local Rule 7.1(a)(3). As you know pursuant to Local Rule 7.1(a)(3), costs may be taxed for the unreasonable holding of consent.

I have provided you with a Stipulation and Order Allowing for the Amendment of Parties, as well as Taxable Costs Pursuant to Local Rule 7.1(a)(3) for your review. By way of background, our office made considerable efforts to obtain consent. Due to your office's failure to not only provide consent, but waited to the 11th hour to advise that consent would not be provided due to a failure to speak with your clients, we were forced to draft the motion.

Milica has incurred roughly 6 hours, Nora has incurred approximately 7 hours and I have incurred approximately 2.5 hours as it relates to the filing of the complaint and attempts to gain concurrence in the relief. My approved hourly rate, consistent with Federal and State Courts in Michigan has been approved at that \$600.00 per hour. I am happy to provide you with the orders if you wish to see them. Milica and Nora, who are associates at our firm, are requesting \$350.00 per hour.

Given the time we have put into this, if this issue is brought to this Court's attention and we prevail on our claim for taxable costs pursuant to Local Rule 7.1(a)(3), our total taxable costs would be a request in the amount of \$6,050.00. We will agree to costs in the amount of \$1,500.00 if you agree now. If you do not consent to our order we will request \$6,050.00 from the Court.

Please review our Stipulation and Order Allowing Amendment of Parties and Award of Taxable Costs Pursuant to Local Rule 7.1(a)(3) and if you will consent to that, we will enter this with the Court, as well as your proposed stipulation and order of dismissal without prejudice as to Ryan Moore.

I also want to direct you and remind you of your motion that you filed with respect to Ryan Moore seeking sanctions against us. I do understand that the Court denied your sanction request for the Complaint filed against Ryan Moore, as we had a good faith basis to name him as the court had indicated, however, I do not think that the Court will be providing you with relief for unreasonably withholding consent pursuant to Local Rule 7.1(a)(3) as you had no good faith basis to withhold consent.

Thank you for your attention to this.

Very truly yours,



James J. Harrington, IV

JJH/dlb
enclosure

cc: Kenneth B. Chapie
John L. Miller
Timothy Mullins

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEFFREY FRANZ, et al.,

Plaintiffs,

Case No. 21-cv-12871

HON. MARK A. GOLDSMITH

Vs.

OXFORD COMMUNITY SCHOOL DISTRICT, et al.,

Defendants.

**STIPULATION AND ORDER
ALLOWING FOR AMENDMENT OF PARTIES
AND AWARD OF TAXABLE COSTS PURSUANT TO LR 7.1(a)(3)**

IT IS HEREBY STIPULATED by and between the parties that Plaintiffs shall be given leave to Amend the Complaint to reflect the removal and dismissal without prejudice and without costs or fees of the following parties:

School Official
Counselor # 1
Counselor 2
Teacher #1
Teacher #2

IT IS FURTHER STIPULATED that Plaintiff shall be granted leave to Amend the Complaint to reflect the addition of the following individuals as party defendants to this case as follows:

NICHOLAS EJAK
PAMELA FINE
SHAWN HOPKINS
JACQUELYN KUBINA
ALLISON KARPINSKI
BECKY MORGAN

IT IS FURTHER STIPULATED that the electronic filing system be updated to reflect the newly added parties.

IT IS FURTHER ORDERED that the Defendants unreasonably withheld consent to Plaintiffs' request to amend the complaint pursuant to LR 7.1(a)(3) and stipulate to taxable costs against Defendants and in favor of Plaintiffs in the amount of \$1,500.00.

Approved as to form and substance:

NORA Y. HANNA (P-80067)
Attorney for Plaintiff

Date

TIMOTHY MULLINS (P-28021)
Attorney for Defendants

Date